

BILL ANALYSIS

C.S.H.B. 2609
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Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, trespassing on private property is a Class B misdemeanor and an officer's only recourse is to arrest the trespasser. In the case of a person engaged in a recreational activity who has accessed the private property via a state-owned river, it is not the most efficient use of a police officer's time to arrest the individual.

The city of New Braunfels experiences a major influx of visitors, young and old, who tube down the Guadalupe and Comal Rivers during the spring, summer, and early fall each year. Unfortunately, sometimes these visitors trespass onto private residential property located along the river routes. The city is requesting that the offense of trespass on residential land be classified as a Class C misdemeanor, which would allow law enforcement officers to issue a citation similar to a citation issued for a traffic offense that would be answerable in municipal court.

C.S.H.B. 2609 makes it a Class C misdemeanor offense to trespass on residential land.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 2609 amends the Penal Code to specify that the conduct constituting the Class C misdemeanor offense of criminal trespass involving entering or remaining on or in property of another without effective consent includes entering or remaining on or in residential land, agricultural land, and a recreational vehicle park, in addition to an aircraft or other vehicle or building of another. The bill defines the term "recreational vehicle park" to mean a tract of land that has rental spaces for two or more recreational vehicles. The bill defines the term "residential land" to mean real property improved by a dwelling and zoned for or otherwise authorized for single-family or multifamily use.

C.S.H.B. 2609 makes it a Class C misdemeanor offense of criminal trespass for a person to, without express consent or without authorization provided by law, enter or remain on the residential land of another while having had notice that the entry was forbidden or after receiving notice to depart and failing to do so. The bill increases the penalty for such an offense to a Class A misdemeanor if the offense is committed in a building or habitation or if the actor carries a deadly weapon during the commission of the offense.

C.S.H.B. 2609 reduces the penalty for the first offense of general criminal trespass from a Class B misdemeanor to a Class C misdemeanor and retains the Class B misdemeanor penalty for a subsequent conviction of this offense.

C.S.H.B. 2609 makes it a defense to prosecution under the offense of criminal trespass that the actor at the time of the offense was an electric utility or a gas utility employee or agent who was performing a duty within the scope of the employment or agency or was a person employed by or acting as an agent for an entity that had, or that the person reasonably believed had, effective consent or authorization provided by law to enter the property and was performing a duty within the scope of that employment or agency.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 2609 adds a provision not in the original to provide that a person commits a trespassing offense if the person enters or remains on or in property of another, including residential land, agricultural land, and a recreational vehicle park. The substitute adds a provision not in the original defining the term "recreational vehicle park."